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DJ 166-012-3

Lee Hutcheson, Esquire
Hutcheson, Kilpatrick, Watson,
Crumbley and Brown
Suite 300
Clayton Federal Building
Jonesboro, Georgia 30236

Dear Mr. Hutcheson:

This is in reference to your letters of October 12, 1971, and December 3, 1971, in which you submitted certain changes in Jonesboro municipal election laws for the Attorney General's approval pursuant to Section 5 of the Voting Rights Act of 1965.

After carefully considering the additional information that you sent on December 3, 1971, along with the material that you submitted initially on October 12, 1971, it appears that the changes under consideration requiring a majority of the votes cast to elect members of the city council, and requiring council members to run from numbered seats, would have the effect of abridging voting rights on account of race when viewed in the context of the situation in Jonesboro. According to the information we have, the only black to be elected to the Jonesboro council was elected in 1969 by a plurality vote under the old system. This would not have been possible under the new system and, in fact, that councilman was defeated in his effort to be reelected last December under the new system. Because of this apparent effect of the changes in question, I must interpose an objection on behalf of the Attorney General to those two portions of your submission.

As you may know, before a decision is made under Section 5 by the Attorney General, he must determine whether the action being taken could have the effect of diminishing the voting rights of racial minorities. If this is found to be the case, an objection must be interposed even though it may be clear that the submitting

authority did not purposefully intend that the change have an adverse racial effect. It is our opinion that the action taken by Jonesboro would have the effect of diluting and minimizing the voting strength of Negroes in that city and greatly diminishing the possibilities of a member of a racial minority being elected to the City Council, thus requiring the Attorney General to object.

Under the facts presented by your submission, and in consideration of this objection, I believe that the results of the municipal election held on December 4, 1971, pursuant to the changes in question cannot be lawfully implemented. I further believe that the election should be reconducted without using the changes to which an objection has been interposed. This approach is consistent with the decision entered on October 29, 1971, in United States v. W. H. Cohan, et al., Civil Action No. 2882, United States District of Georgia. The facts in that case were similar to this one, and Judge Lawrence ordered the City of Hinesville, Georgia, to rehold its municipal elections without using the changes that had been objected to by the Attorney General under Section 5.

Please advise this Department within fifteen (15) days of your decision concerning the possibilities of holding a new election under the circumstances described. Of course, as provided by Section 5, you have the alternative of instituting an action in the United States District Court for the District of Columbia seeking a judgment declaring that the changes in question do not have the effect of denying or abridging the right to vote on account

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of race. Should you choose to pursue that remedy, I would appreciate your so advising me within fifteen (15) days so that a response relating to the holding of new elections will not be expected.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division